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REMARKS

The Examiner has rejected Claim 25 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner alleges that the specification does not disclose "an e-mail vulnerability module with a predetermined port of 31337, and a Trojan program vulnerability module with a predetermined port of 25." Applicant respectfully disagrees. Specifically, the Examiner's attention is drawn to Figure 4 of the originally filed specification, and the accompanying description thereof. A notice of allowance or a specific prior art showing of all of applicant's claim limitations, in combination with the remaining claim elements, is respectfully requested.

The Examiner has further rejected Claim 24 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Such rejection has been avoided by virtue of the clarifications made to the claims hereinabove.

The Examiner has further rejected Claims 1, 3-8, 10-15, and 17-24 under 35 U.S.C. 102(e) as being anticipated by Fudge (U.S. Patent No.: 6,205,552). Applicant respectfully disagrees with such rejection, especially in view of the amendments made hereinabove. Specifically, each of the independent claims has been amended to include the subject matter of Claim 24.

In the latest rejection, the Examiner relies on the following excerpt from Fudge to meet applicant's claimed "executing a port scan of only the first set of ports associated with the selected risk-assessment modules, for reducing the number of ports scanned during the port scan, wherein latency is reduced" (see this or similar, but not identical subject matter in each of the independent claims).

"Further, it would be desirable to scan a given shareable device for only those services provided by that shareable device rather than taking the time to scan for all possible services. Finally, it would be desirable to obtain reports summarizing the results of such scanning in a timely fashion before damage is incurred through any security

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exposures." (see col. 2, lines 22-27)

"and then using the scanning software only upon those devices at the addresses already identified as being shareable." (see col. 2, lines 34-36)

Applicant respectfully disagrees with this assertion. In particular, the "scanning" in the above Fudge excerpts relates to scanning for vulnerabilities, not a port scan, as claimed by applicant. Only applicant teaches and claims a port scan of only the first set of ports associated with the selected risk-assessment modules, for reducing the number of ports scanned during the port scan, wherein latency is reduced.

The Examiner is reminded that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, the identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor Co.* 868 F.2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

This criterion has simply not been met by the Fudge reference, for the reasons noted above. Nevertheless, despite the foregoing paramount difference and in the spirit of expediting the prosecution of the present application, applicant has incorporated the following subject matter of former Claim 24 into each of the independent claims:

"wherein latency is reduced since a port scan involving 65,536 ports is avoided"
(emphasis added).

The Examiner relies on the following excerpt from Fudge to meet such claimed subject matter.

"The present invention achieves a timely and cost effective system vulnerability scanning of shareable devices by first eliminating the unused IP addresses, as well as those corresponding to non-shareable devices, and then using the scanning software only upon those devices at the addresses already identified as being shareable. The scanning can be further restricted to only the services offered by each individual shareable device. Reports may then be generated listing the

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devices found by IP address along with any vulnerabilities detected.”
(see col. 2, lines 31-40)

Applicant again respectfully disagrees with this assertion. Again, Fudge relates to scanning for vulnerabilities, not a port scan, as claimed by applicant. Only applicant teaches and claims a port scan of only the first set of ports associated with the selected risk-assessment modules, for reducing the number of ports scanned during the port scan, wherein latency is reduced since a port scan involving 65,536 ports is avoided.

As set forth above in col. 3, lines 34-39, Fudge discloses an address database that contains a list of all addresses within network, where such complete list of addresses is used to attempt communication with each address. To this end, Fudge *teaches away* from applicant's claimed limited port scan that is limited to only the first set of ports associated with the selected risk-assessment modules, for reducing the number of ports scanned during the port scan, wherein latency is reduced since a port scan involving 65,536 ports is avoided. To quite the contrary, Fudge suggests a scan of involving all ports.

Thus, now emphasized, even more than before, is applicant's claimed technique of limiting the scope of the port scan, in a further effort to reduce latency, particularly with respect to the port scan. Again, it is emphasized that Fudge *teaches away* from such technique by virtue of its all-inclusive pinging of all addresses.

A notice of allowance or a specific prior art showing of all of applicant's claim limitations, in combination with the remaining claim elements, is respectfully requested.

With respect to the dependent claims, applicant has carefully reviewed the excerpts relied upon by the Examiner to reject the same, and has found serious deficiencies in the Examiner's application of the prior art. Just by way of example, the Examiner relies on the following excerpt from Fudge to meet applicant's claimed "storing a third set of ports including the first set of ports and excluding the second set of ports" (see Claim 4 et al.), and "comparing the port associated with each risk-assessment module with the stored third set of ports" (see Claim 5 et al.).

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"Address database 130 contains a list of all addresses within network 100. As shown, the contents of address database 130 are categorized into unused addresses 132, non-shareable device addresses 134, and shareable device addresses 136. Address filtering process 124 retrieves the list of addresses from database 130 and attempts communication with each address to verify the presence of a shareable or non-shareable device. The findings are used to update database 130 as to the classification of each address." (see col. 3, lines 34-44)

Such excerpts from the Fudge reference, however, merely disclose a first set of addresses including all addresses and additional sets including addresses that are unused, non-shareable, shareable, etc. There is simply no third set of ports including the first set of ports (as specifically claimed by applicant) and excluding the second set of ports, and/or any comparison of the port associated with each risk-assessment module with the stored third set of ports, as claimed.

Again, the foregoing anticipation criterion has simply not been met. A notice of allowance or a specific prior art showing of all of applicant's claim limitations, in combination with the remaining claim elements, is respectfully requested.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 971-2573. For payment of any additional fees due in connection with the filing of this paper, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1351 (Order No. NAI1P009/01.114.01).

Respectfully submitted,

By: _____

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03/30/05

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